

**Dated: September 14, 2022**

**The following is ORDERED:**



A handwritten signature in black ink that reads "Janice D. Loyd".

Janice D. Loyd  
U.S. Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In re:	)	
	)	
Summer D. Baxter,	)	Case No. 22-10877-JDL
	)	Ch.7
Debtor.	)	
	)	
Dustin Baxter,	)	
	)	
Plaintiff,	)	
v.	)	Adv. No. 22-1045-JDL
	)	
Summer D. Baxter,	)	
	)	
Defendant.	)	

**ORDER STRIKING DEFENDANT'S MOTION TO DISMISS AS MOOT**

This matter comes before the Court on the Defendant's *Motion to Dismiss Adversary Complaint* filed on August 15, 2022. [Doc. 3]. The motion to dismiss was directed at the Plaintiff's *Complaint* filed on August 1, 2022. [Doc. 1]. On August 18, 2022, the Plaintiff filed his *Amended Complaint*. [Doc. 4]. Plaintiff was permitted to file his *Amended Complaint* as a matter of course, without leave of court. See Fed. R. Civ. P. 15(a).

Defendant has not filed a motion to dismiss directed at the *Amended Complaint*.

“The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded.” *Edwards v. Hanuman Corporation*, 2022 WL 1156639, at \*1 (D. N.M. 2022) (quoting *Strich v. United States*, 2010 WL 148269, at \*1 (D. Colo. 2010). Here, Plaintiff’s *Amended Complaint* supersedes his original *Complaint*. As such, Defendant’s motion to dismiss the original complaint is directed at an inoperative pleading, rendering it moot. See, e.g., *Fawzy v. Wauquiez Boats SNC*, 873 F.3d 451 (4<sup>th</sup> Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect.’”); *AJB Properties, Ltd. v. Zarda Bar-B-Q of Lenexa, LLC*, 2009 WL 1140185, at \*1 (D. Kan. 2009) (finding that an amended complaint superseded the original complaint and accordingly, defendant’s motion to dismiss the original complaint is denied as moot); *Gottfredson v. Larsen LP*, 432 F.Supp.2d 1163, 1172 (D. Colo. 2006) (noting that defendants’ motions to dismiss are “technically moot because they [were] directed at a pleading that is no longer operative”); *Rodriguez v. Xerox Business Services, LLC*, 2016 WL 8674378, at \*1 (W.D. Texas 2016) (“A plaintiff’s filing of an amended complaint may render moot a pending motion to dismiss.”).

Accordingly, Defendant Summer Baxter’s *Motion to Dismiss Adversary Complaint* [Doc. 3] is **STRICKEN AS MOOT**.

**# # #**